Members' Committee

on the

Constitution

INTERIM REPORT

Legislative Assembly

Members' Committee

on the

Constitution

INTERIM REPORT

The Constitution Act, 1982

[amended by
Constitutional Amendment Proclamation, 1983
(SI/84-102)]

and

The British North America Act, 1867
[and amendments]

February 15, 1992

Ms. Joy MacPhail, MLA
Mr. Dale Lovick, MLA
Co-Chairpersons

Mr. Gary Farrell-Collins, MLA
Deputy Chairperson

Parliament Buildings,
Victoria, British Columbia

February 15, 1992

The Honourable Moe Sihota,
Minister Responsible for Constitutional Affairs,
Province of British Columbia,
Victoria, British Columbia

Dear Mr. Minister:

We have the pleasure to present you with the **Interim Report** of the Members' Committee on the Constitution appointed at your request to consider the state of the Canadian Constitution from a British Columbia perspective. Established on Thursday, January 9, 1992, the Committee was asked to prepare an **Interim Report** by February 15, 1992.

Assisted by the work undertaken by the Select Standing Committee on Constitutional Matters and Intergovernmental Relations of the Fifth Session of the Thirty-fourth Parliament and the many British Columbians expressing an interest in the continuing constitutional debate, this **Interim Report** provides a glimpse of prevailing attitudes.

Respectfully submitted,

Ms. Joy MacPhail, MLA
Co-Chairperson

Mr. Dale Lovick, MLA
Co-Chairperson

Mr. Gary Farrell-Collins, MLA
Deputy Chairperson

92-03458/

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TERMS OF REFERENCE

On Thursday, January 9, 1992, the Honourable Moe Sihota, Minister Responsible for Constitutional Affairs asked Members of the Legislative Assembly of British Columbia to form a Members' Committee on the Constitution with the following terms of reference:

> *1. to provide advice to the Minister Responsible for Constitutional Affairs (the government) on matters of Canada's Constitution;*
>
> *2. to receive representations and expressions of views from individuals and groups within British Columbia;*
>
> *3. to provide advice to the government on the most effective and appropriate process for ensuring that the views and values of British Columbians are clearly reflected in British Columbia's position on constitutional issues;*
>
> *4. to provide advice to the government on the most effective and appropriate means for convening a constitutional conference representing the views of British Columbians;*
>
> *5. to review and report on proposals for constitutional change brought forward within British Columbia or elsewhere in Canada;*
>
> *6. to provide advice on the most effective and appropriate means of enhancing the levels of awareness and knowledge of British Columbians concerning the issues involved; and*
>
> *7. to hear evidence from experts on the issues likely to be subject to Constitution negotiations in the coming months.*

In addition to the preceding terms of reference and in the absence of an instruction from the House, Ms. Joan Sawicki, MLA, in her capacity as the Speaker-Designate conferred upon your Committee its ability to adjourn from place to place and incur actual and reasonable expenses as a consequence of fulfilling its terms of reference.

Each Member of your Committee agreed to and signed the following letter dated January 15, 1992 and addressed to the Clerk of Committees:

> *... Having reviewed the terms of reference for the Members' Committee on the Constitution and understanding that the Committee is not, per se, a duly constituted Committee of the Legislative Assembly, I am entirely in agreement with the terms of reference attached hereto.*
>
> *Since the Committee exists on the basis of an all-party consensus I further agree that the Committee's procedure should be guided as though it was a Committee of the House, bearing in mind that the Committee does not possess the same constitutional status, which can be clarified by the Clerk of Committees during the proceedings ...*

COMPOSITION OF THE COMMITTEE

Ms. Joy MacPhail, MLA (Co-Chairperson)
(Vancouver-Hastings)

Mr. Dale Lovick, MLA (Co-Chairperson)
(Nanaimo)

Honourable Moe Sihota (*ex officio*)
(Esquimalt-Metchosin)

Ms. Gretchen Brewin, MLA
(Victoria-Beacon Hill)

Mr. Ujjal Dosanjh, MLA
(Vancouver-Kensington)

Mr. Jim Doyle, MLA
(Columbia River-Revelstoke)

Mr. Helmut Giesbrecht, MLA
(Skeena)

Ms. Sue Hammell, MLA
(Surrey-Green Timbers)

Ms. Shannon O'Neill, MLA
(Shuswap)

Mr. Gary Farrell-Collins, MLA (Deputy Chairperson)
(Fort Langley-Aldergrove)

Mr. David Mitchell, MLA
(West Vancouver-Garibaldi)

Ms. Lynn Stephens, MLA *
(Langley)

Mr. Allan Warnke, MLA
(Richmond-Steveston)

Mr. Lyall Hanson, MLA
(Okanagan-Vernon)

Mr. Richard Neufeld, MLA
(Peace River North)

Mr. Craig James
Clerk of Committees

Mrs. Joan Molsberry
Committees Secretary

Ms. Suzanne Murphy
Hansard Senior Editor

* Substituted for Mr. Gordon Wilson, MLA

ACKNOWLEDGMENTS

Your Committee would like to thank the many witnesses who appeared before it, particularly in light of your Committee's compressed initial timetable. The public continues to contact the Office of the Clerk of Committees on matters related to the Canadian Constitution and British Columbia's role in the Canadian Federation. Even without advertising the work of your Committee, the public, associations and corporations continued to express their desire to appear before it. More than 800 telephone calls and letters containing a variety of opiniors were received and analyzed.

Your Committee, at the beginning of a new Parliament, wishes to note the harmony with which each Member of your Committee brought to bear upon these initial deliberations. As well, your Committee appreciates the administrative and procedural support by the Office of the Clerk of Committees and the efforts of the Legislative Library, Hansard and the provincial government agency, Intergovernmental Relations.

ORGANIZATION

On Thursday, January 16, 1992, your Committee first met and elected Ms. Joy MacPhail, MLA and Mr. Dale Lovick, MLA as its Co-Chairpersons with Mr. Gary Farrell-Collins, MLA being elected your Committee's Deputy Chairperson. Mr. Gordon Wilson, MLA was substituted by Ms. Lynn Stephens, MLA as a Member of the Committee.

Your Committee received the following briefings:

a. administrative and procedural (Office of the Clerk of Committees);
b. terms of reference (Office of the Clerk of Committees); and
c. comparative constitutional reviews (Intergovernmental Relations; Office of the Clerk of Committees).

Your Committee identified the following elements which would enable it to better address its terms of reference:

a. analysis of constitutional conferences held and being held in Canada;
b. critique of the process undertaken by the Select Standing Committee on Constitutional Matters and Intergovernmental Relations;
c. public involvement strategy including, but not limited to:
    - options available to your Committee, including process, advertising and format;
    - budgetary implications for each option; and
    - budgetary comparisons for similar reviews across the country;
d. scheduling options;
e. resources:
    - individuals and groups unable to appear before the previous Legislative Committee; and
    - expert witnesses and others available for an immediate series of informal roundtable discussions.

METHOD OF OPERATION

The Members' Committee on the Constitution held 16 meetings not including informal business sessions, receiving the views of 38 individuals, groups, associations and businesses, none of which was advertised in the normal fashion by your Committee. In consideration of fiscal prudence, your Committee decided to invite several categories of witnesses, initially, in an effort to expedite the process, recognizing the limited time available to it in the preparation of the **Interim Report**. A comprehensive system of notification and scheduling will occur later.

On the following dates the Committee met:

Thursday, January 16, 1992	Victoria	*Business Meeting*
Tuesday, January 21, 1992	Victoria	*Business Meeting*
Friday, January 24, 1992	Calgary	*Business Meeting* 1
Saturday, January 25, 1992	Calgary	*Business Meeting* 1
Sunday, January 26, 1992	Calgary	*Business Meeting* 1
Monday, January 27, 1992	Victoria	*Roundtable Discussion* 2
Tuesday, January 28, 1992	Victoria	*Roundtable Discussion and Business Meeting*
Wednesday, February 5, 1992	Vancouver	*Roundtable Discussion and Business Meeting*
Thursday, February 6, 1992	Victoria	*Roundtable Discussion and Business Meeting*
Friday, February 7, 1992	Toronto	*Business Meeting* 1
Saturday, February 8, 1992	Toronto	*Business Meeting* 1
Sunday, February 9, 1992	Toronto	*Business Meeting* 1
Tuesday, February 11, 1992	Victoria	*Roundtable Discussion and Business Meeting*
Wednesday, February 12, 1992	Victoria	*Roundtable Discussion and Business Meeting*
Friday, February 14, 1992	Vancouver	*Roundtable Discussion and Business Meeting* 1
Saturday, February 15, 1992	Vancouver	*Business Meeting* 1

1. Renewal of Canada Conference; subcommittee meetings
2. Special Joint Parliamentary Committee on a Renewed Canada

The process of consultation for this first phase of your Committee's inquiry was successful given the limiting factors. British Columbians continue to want to speak to their elected representatives on the matter of British Columbia's place in Confederation.

OBSERVATIONS AND RECOMMENDATIONS

In addressing its Terms of Reference several specific issues arose: the quality of the advice being sought by the Minister Responsible for Constitutional Affairs and the process by which the Committee expects to perform its mission.

Your Committee has heard from individuals and groups, expert and non-expert alike, within British Columbia pursuant to its Terms of Reference. Based on the preliminary observations and preliminary recommendations prepared by the Select Standing Committee on Constitutional Matters and Intergovernmental Relations there are similarities: emerging themes, consultative process and continuity from Legislative Committee to Legislative Committee - essential ingredients in intelligent and informed constitutional debate.

Recommendation # 1

Your Committee recommends that:

a. **the government adopt the recommendations contained in the Preliminary Report of the Select Standing Committee on Constitutional Matters and Intergovernmental Relations; and**

b. **pursue through a subsequent Legislative Committee, the observations contained in the above Report in the context of your Committee's Terms of Reference.**

Your Committee believes that in the absence of the Legislative Assembly having the previous Committee's Report to debate, the current government should formally accept it.

While recognizing that, in part, the government may have already addressed some of the components of its predecessor's Report and that your Committee is the result of those recommendations, the following issues are being analyzed:

1. the most effective and appropriate process for ensuring that the views and values of British Columbians are clearly reflected in British Columbia's position on constitutional issues;

2. the most effective and appropriate means for convening a constitutional conference in British Columbia representing the views of British Columbians;

3. analyzing proposals for constitutional change brought forward in British Columbia or elsewhere in Canada; and

4. the most effective and appropriate means of enhancing the levels of awareness and knowledge of British Columbians concerning the issues involved.

Recommendation # 2

Your Committee recommends that the process for effective consultation among British Columbians take the following forms:

a. **province-wide roundtable thematic discussions that involve interactive use of television such as the Knowledge Network;**

b. **public meetings and consultations throughout all regions of British Columbia with representative community input in each region; and**

c. **sensitivity to, and access for, the multiplicity of socio-economic groups in British Columbia.**

Recognizing that a constitution is a document reflecting the many values of society and grows and adapts to a changing society, your Committee believes that the process for constitutional reform requires the widest possible exposure to solicit intelligent and informed debate. As seen elsewhere in Canada, the process is fundamental to the success of constitutional renewal and that everyone be afforded the opportunity to participate. **Participation is a cornerstone of parliamentary democracy.**

Recommendation # 3

Your Committee recommends that a process for accumulating and analysing all proposals should be performed by the appropriate Government Ministry. Deposit of the results should be made available in the Legislative Library or other suitable location. Highlights and themes that may be considered the more prominent and requiring government attention include:

a. **recognition of distinct society for Quebec;**

b. **federalism and the division of powers;**

c. **aboriginal rights and self-government;**

d. **economic policy and social responsibility;**

e. **women and minority representation in Canadian society; and**

f. **parliamentary reform of political institutions.**

Polls taken since the report of your Committee's predecessor illustrate the continuing perplexity in the minds of many Canadians. For example, the economy supplants all other issues as the most important problem confronting the country. Most Canadians remain uninformed about the recent reforms package being promoted by the Federal Government. Sixty-two percent had no opinion when surveyed, twenty-five percent opposed the package, with only thirteen percent actually in favour of it. In British Columbia this was translated into 66 % offering no opinion, 20 % opposed and 13 % in favour of the twenty-eight point federal plan. Fully 77 % knew little or nothing of the proposals. This figure translated across the entire education system from public school through university. **It is vital that the Government of British Columbia be proactive within the evolving constitutional debate.**

A continuing analysis of constitutional proposals is being undertaken by your Committee particularly in light of the recent series of federal constitutional conferences, the special joint parliamentary committee reporting soon and the Ontario Legislative Committee publishing its findings.

Recommendation # 4

Your Committee recommends that public Education should be an integral component of the constitutional renewal process, recognizing the time constraints of national and provincial events unfolding in the immediate future. Also recognizing the need for long term objectives of continuing education there should be the development of :

a. **information and education kits which will facilitate public debate in the coming months;**

b. **educational programs and materials for all levels of the education system which encourage broad public discussion;**

c. **utilization of the Open Learning Institute and the Knowledge Network; and**

d. **MLA involvement at the constituency level.**

The ingredients that contribute toward public education should be developed by your Committee or its successor in conjunction with the appropriate professionals.

Recommendation # 5

Your Committee recommends that the Select Standing Committee on Constitutional Matters and Intergovernmental Relations be constituted early in the First Session of the Thirty-fifth Parliament to continue the work of this all-party Committee and pursue others matters of interest to the Legislative Assembly, the Government and the people of British Columbia.

Recommendation # 6

Your Committee recommends that subsequent to the tabling of the Federal Government's final proposals for constitutional reform, your Committee explore the possibility of convening in British Columbia a meeting of representatives of the Federal Parliament, the ten provinces, two territories and the Aboriginal leadership or their delegates to review the proposals. Such a meeting would provide direction to the First Ministers.

WRITTEN SUBMISSIONS

Your Committee received the following unsolicited written submissions since its inception on January 9, 1992. Included in this list are written submissions received by the Office of the Clerk of Committees during the period August 15, 1991 until the formation of this Committee. Your Committee has yet to determine an advertising program which would satisfy its objectives, however, the Office of the Clerk of Committees has been the focal point for the receipt and dissemination of information related to the issues.

[MC means Members' Committee on the Constitution]

Bell, Florence MC 10/92
British Columbia Chamber of Commerce MC 54/92
British Columbia Coalition of People with Disabilities MC 86/92
British Columbia Parents for French MC 51/92
Brodsky, Gwen MC 53/92
Boulter, Joe MC 7/92

Cole, Dacre MC 83/92
Connolly, P.H. MC 49/92
Council of Canadians MC 67/92
Cowan, Keith MC 82/92

Dialogue Canada MC 76/92
Dobson, Robert MC 47/92

Foster, Hamar MC 73/92
Friends of Canada MC 89/92

Goostrey, Mr. and Mrs. MC 78/92

Hardwick, Dr. Walter MC 52/92

Irvine, Dr. Andrew MC 77/92

Knaus, Jacob MC 71/92
Kohn, Robert MC 46/92
Krampe, William MC 72/92

Matreson, Hugh MC 68/92
Miscellaneous Correspondence received by the Office of the Premier MC 69/92
Mining Association of British Columbia MC 66/92

Open Learning Agency MC 60/92

Page, L.W. MC 50/92
Pelter, J.A. MC 75/92
Premier's Advisory Council for Persons with Disabilities MC 87/92
Prozorovsky-Halsall, W. MC 6/92

Smith, Lynn MC 45/92
Sterloff, Wayne MC 74/92
Sullivan, Dr. Harry MC 62/92

Tenants Rights Action Coalition MC 88/92

Vancouver Board of Trade MC 48/92

West Coast Legal Education and Action Fund MC 64/92

ROUNDTABLE DISCUSSIONS

The following individuals, groups, associations and companies were invited to appear before the Committee for the purposes of exchanging views related to the consultative process and substantive issues inherent in the Canadian Constitution.

Bakan, Joel
Berger, Thomas
Boulter, Joe
British Columbia Chamber of Commerce
British Columbia Coalition of People with Disabilities
British Columbia Environmental Network
British Columbia Federation of Labour
British Columbia Mining Association

Canadian Bar Association
Canadian Parents for French
Carrier-Sekani Tribal Council
Cole, Dacre
Council of Canadians
Cowan, Keith

Day, Sheilagh
Dialogue Canada

End Legislated Poverty

Forest, Jean-Luc
Foster, Hamar
Friends of Canada

Gibb, Mr. and Mrs.

Hansen, John
Hardwick, Walter
Hermes, Jeannette

Knowledge Network

MacDonald, Jack
McWhinney, Q.C., Edward
Malin-Hall, Nichola

Premier's Advisory Council for Persons with Disabilities
Public Interest Advocacy Centre

Ruff, Norman

Smith, Lynn
Smith, Q.C., Mel
Strachan, Bruce
Sullivan, Dr. Harry

Tenants Rights Action Coalition
Thomson, Katherine

United Native Nations

RESEARCH DOCUMENTS

Many sources of information currently exist that should be examined. For example, since August 15, 1991, more than 170 new citations related to the Canadian Constitution have appeared in the Canadian Business Index; more than 120 articles can be found in the Canadian Magazine Index; more than 252 stories have appeared in the Globe and Mail; 698 in the Montreal Gazette; 438 in the Vancouver Sun; 698 in the Edmonton Journal; 856 in the Ottawa Citizen; 118 in the Winnipeg Free Press; and 77 in the Halifax Chronicle Herald.

Using the research documents accumulated by its predecessor the following is a further and partial list of research documents obtained by your Committee, to date.

An Action plan for Canada in Maclean's; January 6, 1992 **MC 36/92**
Alternatives '91; constitutional tour guide by the Canada West Foundation **MC 23/92**
Alternatives '91; a roadmap for constitutional change by the Canada West Foundation **MC 20/92**

The Bottom line: the economics of federal renewal by the Canada West Foundation **MC 18/92**
A Blueprint for Senate reform in Western Perspectives; December 1990 **MC 21/92**
British Columbia Public Interest Advocacy Centre; 10 year report, 1981-1991 **MC 58/92**
A British Columbian responds to Canada's constitutional proposals by Ralph Sultan **MC 35/92**

Canada: the state of the federation 1991 by Professor Norman Ruff **MC 61/92**
Canada reconsidered: a constitutional primer by the Globe and Mail **MC 24/92**
Rebuilding a Canadian consensus; analysis of the Federal Government's proposals for a renewed Canada by the Canadian Bar Association **MC 59/92**

Canadian Hunter: a statement by James Gray **MC 32/92**
A Canadian Social Charter; making our shared values stronger by Ontario Ministry of Intergovernmental Affairs **MC 39/92**
The Challenge before us by Native Council of Canada **MC 57/92**
Citizens and government: who decides? by the Canada West Foundation **MC 17/92**
Citizens Forum on Canada's Future: Report to the people and Government of Canada [selected notes] **MC 85/92**
Conference summary by the Canada West Foundation **MC 19/92**
Constitutional task force reappointed in Government of Saskatchewan News Release **MC 27/92**

Distribution of powers and functions in federal systems by the Government of Canada **MC 16/92**

Economic union: notes on the federal proposals in Network Analysis; December 1991 **MC 34/92**
English Canada and Quebec's rendezvous with independence (The Martland Lectures) by Thomas Berger **MC 42/92**
The European Community: a political model for Canada? by the Government of Canada **MC 13/92**

Getting a foothold in The Network; November-December 1991 **MC 33/92**

Hardline positions result of current constitutional process in Government of Saskatchewan News Release **MC 28/92**
The History of Canada's constitutional development by the Government of Canada **MC 14/92**

The Network; newsletter of The Network of the Constitution MC 30/92; MC 30a/92
Notes for a speech by the Right Honourable Joe Clark ... to the Conference on the Renewal of Canada: institutional reform **MC 26/92**

Our parliamentary heritage by Claude Ryan **MC 80/92**

Parliamentary Committee reorganized in Constitution Update; December 1991 **MC 40/92**
The Path to electoral equality by the Committee for Aboriginal Electoral Reform **MC 11/92**
Presentation on the Federal Government's proposals: Shaping Canada's future together; to the Special Joint Parliamentary Committee on a Renewed Canada by Gordon Wilson, MLA **MC 38/92**

Re-ordering Canada 1992 and the Constitution: who cares? by the Open Learning Agency **MC 60/92**
Renewal of Canada; briefing papers on institutional reform by the Canada West Foundation **MC 43/92**
Renewal of Canada - Institutional Reform by Canada West Foundation **MC 55/92**
Responsive institutions for a modern Canada by the Government of Canada **MC 12/92**

Select Committee on Ontario in Confederation: Final Report **MC 81/92**
Shaping Canada's future together: proposals by the Government of Canada **MC 15/92**
Shaping Canada's future together: discussion guide for participants in Canada's constitutional renewal

MC 25/92

Sharing politics and principles: institutional reform in Canada in Network Analyses; January 1992 **MC 29/92**

The Social Charter debate: should social justice be constitutionalized? in Network Analysis; January 1992 **MC 31/92**

Special Joint Committee on the Amending Formula by Bud Smith, Q.C. **MC 41/92**

Squaring politics and principles: institutional reform in Canada in Network Analyses; January 1992 **MC 29/92**

Submission to the Special Joint Committee on a Renewed Canada by the Honourable Moe Sihota **MC 37/92**

Submissions to the Special Joint Committee on a Renewed Canada [British Columbia] and list of witnesses to the Committee [Canada] MC 44/92

To nobly save by the Honourable Gordon Robertson **MC 79/92**

Towards a new covenant by the Native Council of Canada **MC 56/92**

Western economy and Canadian unity in Western Perspectives; March 1987 **MC 22/92**

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